APPENDIX A

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

IN RE: WORLD WAR II ERA JAPANESE FORCED LABOR LITIGATION	**Master File No. MDL-1347 VRW** **ORDER NO. 5**
This document relates to: *Dunn v. Nippon Steel Corporation, et al.* *Llanza v. Mitsui & Co. (U.S.A.) Inc., et al.* *Mente v. Mitsui & Co., Ltd., et al.* *Resus v. Mitsui & Co., Ltd., et al.* *Rubenstein v. Ishihara Sangyo Kaisha, Ltd., et al.* *Saldajeno v. Ishihara Sangyo Kaisha, Ltd., et al.* *Tenney v. Mitsui & Co., Ltd., et al.* *Terrence v. Mitsui & Co., Ltd., et al.*	

Further to this Court's Order No. 4 entered September 21, 2000, to the Court's oral directive on September 21, 2000 regarding application of Order No. 4 to other matters, and pursuant to agreement by counsel that Order No. 4 shall apply to the five cases listed in the next paragraph,

IT IS HEREBY ORDERED that the following actions be and hereby are dismissed, on the same grounds as the dismissal of the actions identified in the caption of Order No. 4. The actions dismissed by virtue of this Order No. 5 as to which the Clerk shall enter judgment in favor of defendants, are as follows:

Dunn v. Nippon Steel Corporation, et al.

Mente v. Mitsui & Co., Ltd., et al.

Rubenstein v. Ishihara Sangyo Kaisha, Ltd., et al.

Tenney v. Mitsui & Co., Ltd., et al.

Terrence v. Mitsui & Co., Ltd., et al.

In view of the parties' inability to reach agreement as to whether Order No. 4 applies to cases in which the plaintiffs are or were nationals of the Philippines, that issue shall be determined through further proceedings. The four such cases currently pending in this Court are:

Llanza v. Mitsui & Co. (U.S.A.) Inc., et al.

Resus v. Mitsui & Co., Ltd., et al.

Saldajeno v. Ishihara Sangyo Kaisha, Ltd., et al.

Santo Domingo v. Ishihara Sangyo Kaisha, Ltd., et al.

APPROVED AS TO FORM:

HERMAN MIDDLETON CASEY & KITCHENS, LLP

By: /s/ Bonnie E. Kane

Bonnie E. Kane

Attorneys for Plaintiffs in *Rubenstein v. Ishihara Sangyo Kaisha, Ltd., et al.* and *Tenney v. Mitsui & Co., Ltd., et al.*

DANIEL C. LEIB

By: /s/ Daniel C. Leib

Daniel C. Leib

Attorneys for Plaintiffs in *Dunn v. Nippon Steel Corp., et al.*

WELLMAN & WARREN

By: /s/ Scott W. Wellman

Scott W. Wellman

Attorneys for Plaintiffs in *Mente v. Mitsui & Co., Ltd., et al., Terrence v. Mitsui & Co., Ltd., et al., and Resus v. Mitsui & Co., Ltd., et al.*

COTCHBIT, PITRE & SIMON

By: /s/ Bruce L. Simon

Bruce L. Simon

Attorneys for Plaintiffs in *Saldajeno v. Ishihara Sangyo Kaisha, Ltd., et al.*

STRITMATTER KESSLER WHELAN WITHEY COLUCCIO

By: /s/ Michael Withey

Michael Withey

Attorneys for Plaintiffs in *Santa Domingo v. Ishihara Sangyo Kaisha, Ltd., et al.*

LAW OFFICES OF LIONEL Z. GLANCY

By: /s/ Lionel Z. Glancy

Lionel Z. Glancy

Attorneys for Plaintiffs in *Llanza v. Mitsui & Co. (U.S.A.) Inc., et al.*

APPROVED AS TO FORM:

(Approval as to form by counsel does not constitute an appearance by any defendant in any action in which such defendant has not been served with summons or appeared, notwithstanding that such counsel may represent or have appeared for such defendant in some other action)

MORRISON & FOERSTER LLP

By: /s/ Arne D. Wagner
Arne D. Wagner

BINGHAM DANA LLP

By: /s/ Matthew Digby
Matthew Digby

KIRKLAND & ELLIS

By: /s/ Christopher Landau
Christopher Landau

McCUTCHEN, DOYLE, BROWN & ENERSEN, LLP

By: /s/ David M. Balabanian
David M. Balabanian

SULLIVAN & CROMWELL

By: /s/ Margaret K. Pfeiffer
Margaret K. Pfeiffer

SQUIRE, SANDERS & DEMPSEY, LLP

By: /s/ Nathan Lane III
Nathan Lane III

O'MELVENY & MYERS LLP

By: /s/ John H. Beisner
John H. Beisner

HELLER ERHMAN WHITE & McAULIFFE LLP

By: /s/ Stephen V. Bomse

Stephen V. Bomse

CLEARY GOTTLIEB STEEN & HAMILTON

By: /s/ Sara D. Schotland

Sara D. Schotland

PILLSBURY, MADISON & SUTRO, LLP

By: /s/ Barbara L. Croutch

Barbara L. Croutch

LOEB & LOEB LLP

By: /s/ Douglas E. Mirrell

Douglas E. Mirrell

MASUDA & EJIRI

By: /s/ Junji Masuda

Junji Masuda

KELLEY DRYE & WARREN LLP

By: /s/ Paul F. Doyle

Paul F. Doyle

IT IS SO ORDERED:

/s/ Vaughn R. Walker

VAUGHN R. WALKER
UNITED STATES DISTRICT JUDGE

APPENDIX B

THE WAR CLAIMS ACT

The War Claims Act of July 3, 1948, 62 Stat. 1240 (50 U.S.C. app. §§ 2001 et seq.) provides in pertinent part:

SEC. 2001. Foreign Claims Settlement Commission of the United States

(a) Employment of personnel; use of other facilities and services

The Foreign Claims Settlement Commission of the United States (hereinafter referred to as the "Commission") may, in accordance with the provisions of the civil-service laws and the Classification Act of 1949, as amended [5 U.S.C. 5101 et seq., 5331 et seq.], appoint and fix the compensation of such officers, attorneys, and employees, and may make such expenditures, as may be necessary to carry out its functions. Officers and employees of any other department or agency of the Government may, with the consent of the head of such department or agency, be assigned to assist the Commission in carrying out its functions. The Commission may, with the consent of the head of any other department or agency of the Government, utilize the facilities and services of such department or agency in carrying out the functions of the Commission.

(b) Rules and regulations; delegation of functions; time limit on filing of claims

The Commission may prescribe such rules and regulations as may be necessary to enable it to carry out its functions, and may delegate functions to any member, officer, or employee of the Commission. The Commission shall give public notice of the time when, and the limit of time within which, claims may be filed, which notice shall be published in the Federal Register. The limit of time within which claims may be filed with the Commission shall in no

event be later than March 31, 1952. The Commission shall take immediate action to advise all persons entitled to file claims under the provisions of this title [sections 2001 to 2016 of this Appendix] administered by the Commission of their rights under such provisions, and to assist them in the preparation and filing of their claims.

(c) Subpenas; issuance; contempt; witness fees; administration of oaths

(1) For the purpose of any hearing, examination, or investigation under this title [sections 2001 to 2016 of this Appendix], the Commission and those employees designated by the Commission shall have the power to issue subpenas requiring persons to appear and testify or to appear and produce documents, or both, at any designated place where such hearing, examination, or investigation is being held. The Commission or any employee so designated shall, upon application of a claimant, issue to such claimant subpenas requiring the attendance and testimony of witnesses or the production of documents, or both, required by such claimant in hearings upon his claim: *Provided*, That the claimant making such application pay the witness fees and mileage of any witness or witnesses subpenaed upon his request. The production of a person's documents at any place other than his place of business shall not be required, however, in any case in which, prior to the return date specified in the subpena with respect thereto, such person either has furnished the issuer of the subpena with a copy of such documents (certified by such person under oath to be a true and correct copy) or has entered into a stipulation with the issuer of the subpena as to the information contained in such documents.

(2) The Commission may, in case of a failure or refusal on the part of any person to comply with any such subpena, invoke the aid of any United States district court within the jurisdiction of which the hearing, examination, or

investigation is being conducted, or such person resides or transacts business. Such court may issue an order requiring such person to appear at the designated place of hearing, examination, or investigation, there to give or produce testimony or documentary evidence concerning the matter in question. Any failure to obey such order of the court shall be punishable by such court as a contempt thereof. All process in any such case may be served in the judicial district wherein such person resides or transacts business or wherever such person may be found.

(3) Witnesses subpenaed under this subsection shall be paid the same fees and mileage that are allowed and paid witnesses in United States district courts.

(4) Any member of the Commission, and any employee of the Commission authorized by the Commission to do so, may administer to, or take from, any person an oath, affirmation, or affidavit when such action is necessary or appropriate in the performance of the functions or activities of the Commission.

* * *

SEC. 2005. Prisoners of war

(a) "Prisoner of war" defined

As used in subsection (b) of this section, the term "prisoner of war" means any regularly appointed, enrolled, enlisted, or inducted member of the military or naval forces of the United States who was held as a prisoner of war for any period of time subsequent to December 7, 1941, by any government of any nation with which the United States has been at war subsequent to such date.

(b) Payment of claims; rate allowed; certification of claims

The Commission is authorized to receive, adjudicate according to law, and provide for the payment of any claim

filed by any prisoner of war for compensation for the violation by the enemy government by which he was held as a prisoner of war, or its agents, of its obligation to furnish him the quantity or quality of food to which he was entitled as a prisoner of war under the terms of the Geneva Convention of July 27, 1929. The compensation allowed to any prisoner of war under the provisions of this subsection shall be at the rate of $1 for each day he was held as a prisoner of war on which the enemy government or its agents failed to furnish him such quantity or quality of food. Any claim allowed under the provisions of this subsection shall be certified to the Secretary of the Treasury for payment out of the War Claims Fund established by section 13 of this title [section 2012 of this Appendix].

(c) Persons entitled to payments

Claims pursuant to subsection (b) shall be paid to the person entitled thereto, and shall in case of death of the persons who are entitled be payable only to or for the benefit of the following persons:

(1) Widow or husband if there is no child or children of the deceased;

(2) Widow or husband and child or children of the deceased, one-half to the widow or husband and the other half to the child or children of the deceased in equal shares;

(3) Child or children of the deceased (in equal shares) if there is no widow or husband; and

(4) Parents (in equal shares) if there is no widow, husband, or child.

(d) Additional definition of "prisoner of war"; payment of claims; rate allowed; persons entitled to payments

(1) As used in this subsection the term "prisoner of war" means any regularly appointed, enrolled, enlisted, or inducted member of the military or naval forces of the

United States, who was held a prisoner of war for any period of time subsequent to December 7, 1941, by any government of any nation with which the United States has been at war subsequent to such date.

(2) The Commission is authorized to receive, adjudicate according to law, and to provide for the payment of any claim filed by any prisoner of war for compensation--

(A) for the violations by the enemy government by which he was held as a prisoner of war, or its agents, of such government's obligations under title III, section III, of the Geneva Convention of July 27, 1929, relating to labor of prisoners of war; or

(B) for inhumane treatment by the enemy government by which he was held, or its agents. The term "inhumane treatment" as used herein shall include, but not be limited to, violation by such enemy government, or its agents, of one or more of the provisions of articles 2, 3, 7, 10, 12, 13, 21, 22, 54, 56, or 57, of the Geneva Convention of July 27, 1929.

(3) Compensation shall be allowed to any prisoner of war under this subsection at the rate of $1.50 per day for each day he was held as a prisoner of war on which he alleges and proves in a manner acceptable to the Commission--

(A) the violation by such enemy government or its agents of the provisions of title III, section III, of the Geneva Convention of July 27, 1929; or

(B) any inhumane treatment as defined herein.

Any claim allowed under the provisions of this subsection shall be certified to the Secretary of the Treasury for payment out of the War Claims Fund established by section 13 of this title [section 2012 of this Appendix]. In no event shall the compensation allowed to any prisoner of war under this subsection exceed the sum of $1.50 with respect to any one day.

(4) Claims pursuant to subsection (d)(2) shall be paid to the person entitled thereto, or to his legal or natural guardian if he has one, and shall, in case of death of the persons who are entitled be payable only to or for the benefit of the following persons:

(A) widow or husband if there is no child or children of the deceased;

(B) widow or husband and child or children of the deceased, one-half to the widow or husband and the other half to the child or children of the deceased in equal shares;

(C) child or children of the deceased (in equal shares) if there is no widow or husband; and

(D) parents (in equal shares) if there is no widow, husband, or child.

(e) Extension to Korean War prisoners

(1) As used in this subsection the term "prisoner of war" means any regularly appointed, enrolled, enlisted, or inducted member of the Armed Forces of the United States who was held as a prisoner of war for any period of time subsequent to June 25, 1950, by any hostile force with which the Armed Forces of the United States were actually engaged in armed conflict subsequent to such date and prior to the date of enactment of this subsection [Aug. 21, 1954], or any person (military or civilian) assigned to duty in the U.S.S. Pueblo who was captured by the military forces of North Korea on January 23, 1968, and thereafter held prisoner by the Government of North Korea for any period of time ending on or before December 23, 1968, except any person who, at any time, voluntarily, knowingly, and without duress, gave aid to or collaborated with or in any manner served any such hostile force.

(2) The Commission is authorized to receive and to determine, according to law, the amount and validity, and

provide for the payment of any claim filed by any prisoner of war for compensation for the failure of the hostile force by which he was held as a prisoner of war, or its agents, to furnish him the quantity or quality of food prescribed for prisoners of war under the terms of the Geneva Convention of July 27, 1929. The compensation allowed to any prisoner of war under the provisions of this paragraph shall be at the rate of $1 for each day on which he was held as a prisoner of war and on which such hostile force, or its agents, failed to furnish him such quantity or quality of food.

(3) The Commission is authorized to receive and to determine, according to law, the amount and validity and provide for the payment of any claim filed by any prisoner of war for compensation--

(A) for the failure of the hostile force by which he was held as a prisoner of war, or its agents, to meet the conditions and requirements prescribed under title III, section III, of the Geneva Convention of July 27, 1929, relating to labor of prisoners of war; or

(B) for inhumane treatment by the hostile force by which he was held, or its agents. The term "inhumane treatment" as used herein shall include, but not be limited to, failure of such hostile force, or its agents, to meet the conditions and requirements of one or more of the provisions of articles 2, 3, 7, 10, 12, 13, 21, 22, 54, 56, or 57 of the Geneva Convention of July 27, 1929.

Compensation shall be allowed to any prisoner of war under this paragraph at the rate of $1.50 per day for each day on which he was held as a prisoner of war and with respect to which he alleges and proves in a manner acceptable to the Commission the failure to meet the conditions and requirements described in subparagraph (A) or the inhumane treatment described in subparagraph (B). In no event shall the compensation allowed to any prisoner of war under this

paragraph exceed the sum of $1.50 with respect to any one day.

(4) Any claim allowed by the Commission under this subsection shall be certified to the Secretary of the Treasury for payment out of funds appropriated pursuant to this subsection and shall be paid by the Secretary of the Treasury to the person entitled thereto, and shall, in case of death or determination of death of the persons who are entitled, be paid only to or for the benefit of the persons specified, and in the order established, by paragraph (4) of subsection (d) of this section.

(5) Each claim filed under this subsection must be filed not later than one year from whichever of the following dates last occurs:

(A) The date of enactment of this subsection [Aug. 21, 1954];

(B) The date the prisoner of war by whom the claim is filed returned to the jurisdiction of the Armed Forces of the United States; or

(C) The date upon which the Department of Defense makes a determination that the prisoner of war has actually died or is presumed to be dead, in the case of any prisoner of war who has not returned to the jurisdiction of the Armed Forces of the United States;

(D) In the case of any person assigned to duty in the U.S.S. Pueblo referred to in paragraph (1) of this subsection, one year after the date of enactment of this subparagraph [June 24, 1970].

The Commission shall complete its determinations with respect to each claim filed under this subsection at the earliest practicable date, but in no event later than one year after the date on which such claim was filed.

(6) Any claim allowed under the provisions of this subsection shall be paid from funds appropriated pursuant to paragraph (7) of this subsection.

(7)(A) There are authorized to be appropriated such amounts as may be necessary to carry out the purposes of this subsection, including necessary administrative expenses.

(B) The Commission shall determine, from time to time, the share of its administrative expenses attributable to the performance of its functions under this subsection and make the appropriate adjustments in its accounts, and determinations and adjustments made pursuant to this subparagraph shall be final and conclusive.

(f) Vietnam conflict; definitions; authority of Commission; classes of claims; rate of compensation; certification for payment; persons entitled to payments; filing date; determination of claims; fund for payment; appropriations

(1) As used in this subsection--

(A) the term "Vietnam conflict" relates to the period beginning February 28, 1961, and ending on such date as shall thereafter be determined by Presidential proclamation or concurrent resolution of the Congress; and

(B) the term "prisoner of war" means any regularly appointed, enrolled, enlisted, or inducted member of the Armed Forces of the United States who was held as a prisoner of war for any period of time during the Vietnam conflict by any force hostile to the United States, except any such member who, at any time, voluntarily, knowingly, and without duress, gave aid to collaborated with, or in any manner served, such hostile force.

(2) The Commission is authorized to receive and to determine, according to law, the amount and validity, and provide for the payment of any claim filed by any prisoner of

war for compensation for the failure of the hostile force by which he was held as a prisoner of war, or its agents, to furnish him the quantity or quality of food prescribed for prisoners of war under the terms of the Geneva Convention of August 12, 1949. The compensation allowed to any prisoner of war under the provisions of this paragraph shall be at the rate of $2 for each day on which he was held as a prisoner of war and on which such hostile force, or its agents, failed to furnish him such quantity or quality of food.

(3) The Commission is authorized to receive and to determine, according to law, the amount and validity and provide for the payment of any claim filed by any prisoner of war for compensation--

(A) for the failure of the hostile force by which he was held as a prisoner of war, or its agents, to meet the conditions and requirements prescribed under chapter VIII, section III, of the Geneva Convention of August 12, 1949, relating to labor of prisoners of war; or

(B) for inhumane treatment by the hostile force by which he was held, or its agents. The term "inhumane treatment" as used in this subparagraph shall include, but not be limited to, failure of such hostile force, or its agents, to meet the conditions and requirements of one or more of the provisions of articles 3, 12, 13, 14, 17, 19, 22, 23, 24, 25, 27, 29, 43, 44, 45, 46, 47, 48, 84, 85, 86, 87, 88, 89, 90, 97, or 98 of the Geneva Convention of August 12, 1949.

Compensation shall be allowed to any prisoner of war under this paragraph at the rate of $3 per day for each day on which he was held as a prisoner of war and with respect to which he alleges and proves in a manner acceptable to the Commission the failure to meet the conditions and requirements described in subparagraph (A) of this paragraph or the inhumane treatment described in subparagraph (B) of this paragraph. In no event shall the

compensation allowed to any prisoner of war under this paragraph exceed the sum of $3 with respect to any one day.

(4) Any claim allowed by the Commission under this subsection shall be certified to the Secretary of the Treasury for payment out of funds appropriated pursuant to this subsection and shall be paid by the Secretary of the Treasury to the person entitled thereto, and shall, in the case of death or determination of death of the persons who are entitled, be paid only to or for the benefit of the persons specified, and in the order established, by subsection (d)(4) of this section.

(5) Each claim filed under this subsection must be filed not later than three years from whichever of the following dates last occurs:

(A) the date of enactment of this subsection [June 24, 1970];

(B) the date the prisoner of war by whom the claim is filed returned to the jurisdiction of the Armed Forces of the United States; or

(C) the date upon which the Department of Defense makes a determination that the prisoner of war has actually died or is presumed to be dead, in the case of any prisoner of war who has not returned to the jurisdiction of the Armed Forces of the United States.

The Commission shall complete its determinations with respect to each claim filed under this subsection at the earliest practicable date, but in no event later than one year after the date on which such claim was filed.

(6) Any claim allowed under the provisions of this subsection shall be paid from funds appropriated pursuant to paragraph (7) of this subsection.

(7) There are authorized to be appropriated such amounts as may be necessary to carry out the purposes of this subsection, including necessary administrative expenses.

(g) Manner of payment

Where any person entitled to payment under this section is under any legal disability, payment may be made in accordance with the provisions of subsection (e) of section 5 [section 2004(e) of this Appendix].

* * *

SEC. 2007. Commission's report on personal injury and property claims to President; findings; recommendations; public property; legislative effect

(a) The Commission shall inquire into and report to the President, for submission of such report to the Congress on or before March 31, 1950, with respect to war claims arising out of World War II, other than claims which may be received and adjudicated under the preceding sections of this title [sections 2001 to 2006 of this Appendix], and shall present in such report its findings on--

(1) the estimated number and amount of such claims, classified by types and categories; and

(2) the extent to which such claims have been or may be satisfied under international agreements or domestic or foreign laws.

(b) The report of the Commission shall contain recommendations with respect to--

(1) categories and types of claims, if any, which should be received and considered and the legal and equitable bases therefor;

(2) the administrative method by which such claims should be considered, and any priorities or limitations which should be applicable; and

(3) any limitations which should be applied to the allowance and payment of fees in connection with such claims.

(c) The Commission shall include in such report--

(1) such other recommendations as it deems appropriate; and

(2) such proposals for legislation as it deems appropriate for carrying out the recommendations made in such report.

(d) Such report, with accompanying evidence, shall be printed as a public document when received by the Congress.

(e) Nothing in this section shall be deemed to imply that the Congress will enact legislation--

(1) adopting any recommendations made under this section with respect to the consideration or payment of any type of claim; or

(2) making any moneys, including moneys remaining in the war claims fund after the making of payments from such fund provided for by this title [sections 2001 to 2016 of this Appendix], available for the payment of such claims.

* * *

SEC. 2010. Hearings on claims; finality of decision

The Commission shall notify all claimants of the approval or denial of their claims, and, if approved, shall notify such claimants of the amount for which such claims are approved. Any claimant whose claim is denied, or is approved for less than the full allowable amount of such claim, shall be entitled, under such regulations as the Commission may prescribe, to a hearing before the Commission or its representatives with respect to such claim. Upon such hearing, the Commission may affirm, modify, or revise its former action with respect to such claim, including a denial or reduction in the amount theretofore allowed with respect to such claim. The action of the Commission in allowing or denying any claim under this title [sections 2001 to 2016 of this Appendix] shall be final and conclusive on all

questions of law and fact and not subject to review by any other official of the United States or by any court by mandamus or otherwise, and the Comptroller General is authorized and directed to allow credit in the accounts of any certifying or disbursing officer for payments in accordance with such action.

APPENDIX C

CONSTITUTIONAL PROVISIONS

1. The Spending Clause of the United States Constitution, Art. 1, § 8, Cl. 1, provides:

The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;

2. Section 8, Clause 10 of Article I of the United States Constitution provides that Congress shall have power:

To define and punish Piracies and Felonies committed on the high Seas, and Offences against the Law of Nations;

3. Section 8, Clause 11 of Article I of the United States Constitution provides that Congress shall have power:

To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water;

4. Section 8, Clause 12 of Article I of the United States Constitution provides that Congress shall have power:

To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years;

5. Section 8, Clause 13 of Article I of the United States Constitution provides that Congress shall have power:

To provide and maintain a Navy;

6. Section 8, Clause 14 of Article I of the United States Constitution provides that Congress shall have power:

To make Rules for the Government and Regulation of the land and naval Forces;

7. Section 10, Clause 1 of Article I of the United States Constitution provides that:

No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility

8. Section 10, Clause 3 of Article I of the United States Constitution provides that:

No State shall, without the Consent of Congress, lay any Duty of Tonnage, keep Troops, or Ships of War in time of Peace, enter into any Agreement or Compact with another State, or with a foreign Power, or engage in War, unless actually invaded, or in such imminent Danger as will not admit of delay.

9. Section 2, Clause 1 of Article II of the United States Constitution provides that:

The President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the United States; he may require the Opinion, in writing, of the principal Officer in each of the executive Departments, upon any Subject relating to the Duties of their respective Offices, and he shall have Power to grant Reprieves and Pardons for Offenses against the United States, except in Cases of Impeachment.

10. Section 2, Clause 2 of Article 2 of the United States Constitution provides that:

[The President] shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the Advice and Consent of

the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law: but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.